

Abstract

PRINCIPLE OF SUPERFICIES SOLO CEDIT

This thesis focuses on the superficies solo cedit principle, which can be translated as „the surface yields to the ground“. The principle originated in Roman law and is projected into legal systems of most of the European democratic countries until today. According to this principle, everything firmly attached to the ground or grown on the land is component part of the land. Therefore, plants and structures are considered as typical component parts of the tract of land. The owner of the tract of land simultaneously and automatically owns its component parts. All dispositions regarding the tract of land must include the component parts, as component parts are not separate objects of law.

This thesis deals with the evolution and regulation of the superficies solo cedit principle in Roman law, as well as in legal orders valid on the Czech territory until now. The main focus is on the analysis and comparison of previous legal regulations and currently valid civil law, represented by Act No. 89/2012 Sb., Civil Code. Close attention is given to the definition of things in legal sense, definition of immovable things and related legal concepts, particularly to the right of superficies and other exceptions from the principle superficies solo cedit.

In the first chapter, origin and expression of the principle superficies solo cedit in Roman law is uncovered. The second chapter is dedicated to the legal regulations previously valid on our territory, and is divided into four subchapters dealing with the Austrian Allgemeines bürgerliches Gesetzbuch introduced in 1811, that was introduced into the legal order of Czechoslovak republic in 1918, proposal of Civil Code of 1937, Act No. 141/1950 Sb., Civil Code and Act No. 40/1964 Sb., Civil Code, all prior to the current legislation. While the principle superficies solo cedit was known to Allgemeines bürgerliches Gesetzbuch, Civil Codes from 1950 and 1964 did not follow this principle. Third, and the most important chapter, deals with the currently valid Civil Code represented by Act. No. 89/2012 Sb., that reintroduced the superficies solo cedit principle into the Czech legal order. This chapter provides definition of things in legal sense, discusses immovable things, principle superficies solo cedit and exceptions from it and right of superficies, as they are present in the valid legislation. The fourth chapter is dedicated to the registration of immovable property and land register, whose regulation is significantly influenced by the superficies solo cedit principle, and as such is an

important overlap of this principle into the public law regulation. In the last, fifth chapter, comparison of the Czech legal regulation of this principle with legal regulations provided by German and Austrian law is included. Both legal orders were important inspirational sources for the Act. No. 89/2012 Sb., Civil Code.